

ASSEMBLY BILL

No. 1849

Introduced by Assembly Member Nation

January 29, 2004

An act to amend Section 8265.7 of, to add Sections 8206.8, 8273, 8274, and 8471 to, and to repeal and add Section 8223 to, the Education Code and to add Section 1596.804 to the Health and Safety Code, relating to child care.

LEGISLATIVE COUNSEL'S DIGEST

AB 1849, as introduced, Nation. Child care and development.

(1) Existing law prohibits a person, firm, partnership, association, or corporation from operating, establishing, managing, conducting, or maintaining a child day care facility in this state without a current valid license.

This bill would require State Department of Education to allocate funds set aside by the federal Child Care and Development Block Grant to improve the quality of child care for transfer to the State Department of Social Services equal to the estimated annual cost of child care facility licenses for child care center sites that provide services pursuant to a contract with the State Department of Education. The bill would exempt these sites from any annual child day care licensing fees.

(2) Existing law requires the assigned reimbursement rate for alternative payment programs to include the cost of child care plus the administration costs of the alternative payment program.

This bill would instead prescribe the percentage of allowable expenditures an alternative payment program may make for payments to child care providers, for family support services and provider training and support services, and for administrative expenses. The bill

would define family support services, provider training and support services, and administrative expenses.

(3) Existing law requires the Superintendent of Public Instruction to implement a plan that establishes reasonable standards and assigned reimbursement rates for child care providers that contract with the State Department of Education and authorizes a program above the standard reimbursement rate to be considered on a case-by-case basis for rate adjustments due to documented increases in insurance costs.

This bill would also authorize a program at the standard reimbursement rate to be considered on a case-by-case basis for this rate adjustment.

The bill would require that a contractor funded for a center based program be allowed reimbursement for up to 4 days a year for staff training.

(4) Existing law authorizes the governing board of a school district and the county superintendent of schools to establish and maintain child developments and requires them to establish in the county treasury a fund to be known as the “child development fund” into which shall be paid all funds received by the district or the county for, or from the operation of, child development services.

This bill would require a child care provider that contracts with the State Department of Education and is not a school district, county superintendent of schools, city, county, community college district, California State University, or University of California to establish in a federally insured banking institution located in California an interest bearing account to be known as the “child development fund” into which shall be paid all funds received by the contractor, or from the operation of, child development services. The bill would require the child care contractor to account for the interest income separate from other program income and would authorize the contractor to retain the interest income if certain conditions are met. The bill would allow a contractor with more than one contract to assign interest earned on advance funds received pursuant to one contract to any one or more contracts if the contractor is able to enroll additional children, as specified.

(5) Existing law authorizes the Superintendent of Public Instruction to enter into local contractual agreements for the delivery of extended day care services and requires the cost of these programs to be competitive with local private market rates. Existing law establishes the maximum reimbursement rate for a full year of extended day care



service. Existing law requires the superintendent to annually review the implementation of the reimbursement rates to determine whether they are reasonable, cost effective and consistent with the goal of increasing the availability of affordable child care services for nonsubsidized children.

This bill would authorize a provider of extended day care services under contract with the State Department of Education whose costs of operation exceed its earnings under the assigned reimbursement rate to request that its contract be terminated, in which case, upon presentation of cost evidence as required by the superintendent, the department and provider would enter into a general child care and development contract that would require the contractor to continue to serve children enrolled in kindergarten and grades 1 to 8, inclusive, who meet the eligibility requirements for general child care and development programs. The bill would require the contract to provide that program staff employed on the date the contract is entered into have 7 years from that date to meet program personnel qualifications that apply to general child care and development programs.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. (a) The Legislature finds and declares as
2 follows:
3 (1) There is a severe financial crisis among child development
4 centers that directly contract with the State Department of
5 Education due to the combination of inadequate cost-of-living
6 adjustments over many years and sharply increasing costs of
7 operation, including worker's compensation insurance,
8 unemployment insurance, employee health insurance, liability
9 insurance, electricity, water, child care licensing fees, and other
10 costs. This financial crisis has significantly reduced the
11 educational quality of child development center programs by
12 severely restricting the purchase of classroom supplies and books,
13 curtailing or eliminating field trips, reducing teacher lesson
14 planning time, reducing or eliminating teacher in-service training,
15 and reducing teacher salaries and benefits, which has led to the loss
16 of experienced and effective teachers.



(2) In most areas of the state, child development centers are paid, under their direct contracts, a lesser amount per child than they would be paid under the CalWORKs program although these centers are required to meet educational standards not required of other child care programs and to employ teachers with greater education and experience than other child care programs.

(3) Schoolage community child care center agencies commonly have contract rates substantially below the rates of other direct center contractors, are commonly losing money, and can no longer operate on the existing inadequate rates.

(4) The State Department of Education is paying twice for licensing of its direct contracted child development centers: once by transfer of millions of federal Child Care and Development Block Grant dollars to the State Department of Social Services for child care licensing and then again by paying from State Department of Education funds an annual licensing fee at each center. Further, the doubling of licensing fees and elimination of the aggregate licensing rate would have a further detrimental effect on the educational quality of care at child development centers.

(5) Child development centers have recently lost the ability to set aside staff training days without loss of program income.

(6) Administrative cost rules for alternative payment agencies are not adequately defined in law, resulting in a perception that administrative costs are higher than they actually are.

(7) New regional market rate regulations, designed to control the cost of care in the alternative payment and CalWORKs programs, have significantly increased staff workloads and staffing costs in these programs.

(b) Therefore, it is the intent of the Legislature to do all of the following:

(1) Fund licensing of centers that directly contract with the State Department of Education through quality set-aside funds in the federal Child Care and Development Block Grant, and not through fees paid directly by the centers.

(2) Allow greater flexibility to these centers in the use of interest income and in obtaining contract rate increases to cover increased insurance costs, without increasing the funds allocated for child development in the state budget.

(3) Allow schoolage community child care center agencies that are losing money and in danger of closing to transfer their

1 contracts to a different child development program type in order
2 to continue in operation.

3 (4) Allow direct contracted centers to set aside a reasonable
4 number of training days without loss of income.

5 (5) Clearly define reasonable limits for administrative costs
6 and for family support and provider training and support costs, for
7 alternative payment and CalWORKs programs.

8 SEC. 2. Section 8206.8 is added to the Education Code, to
9 read:

10 8206.8. The State Department of Education shall allocate
11 funds set aside by the federal Child Care and Development Block
12 Grant to improve the quality of child care for transfer to the State
13 Department of Social Services in an amount equal to the estimated
14 cost of child care facility licenses for all child care center sites
15 contracted pursuant to Article 6 (commencing with Section 8230),
16 Article 7 (commencing with Section 8325), Article 8
17 (commencing with Section 8240), and Article 22 (commencing
18 with Section 8460). These sites are exempt from any annual child
19 day care licensing fees.

20 SEC. 3. Section 8223 of the Education Code is repealed.

21 ~~8223. The assigned reimbursement rate for alternative~~
22 ~~payment programs shall include the cost of child care plus the~~
23 ~~administrative cost of the alternative payment program.~~

24 SEC. 4. Section 8223 is added to the Education Code, to read:

25 8223. An alternative payment contract governed by regional
26 market rates shall provide for the allocation of costs as follows:

27 (a) A contractor whose aggregate maximum reimbursable
28 amount under all alternative payment, CalWORKs Stage 2, and
29 CalWORKs Stage 3 contracts for any single county are less than
30 two million dollars (\$2,000,000), shall expend contract funds as
31 follows:

32 (1) At least 75 percent of allowable expenditures shall be for
33 payments to child care providers.

34 (2) A maximum of 25 percent of allowable expenditures shall
35 be for family support services, provider training and support
36 services, and administrative expenses.

37 (3) A maximum of 9 percent of allowable expenditures shall be
38 for administrative expenses.

(b) All other alternative payment, CalWORKs Stage 1, CalWORKs Stage 2, and CalWORKs Stage 3 contractors, shall expend contract funds as follows:

(1) At least 80 percent of allowable expenditures shall be for payments to child care providers.

(2) A maximum of 20 percent of allowable expenditures shall be for family support services, provider training and support services, and administrative expenses.

(3) A maximum of 7 percent of allowable expenditures shall be for administrative expenses.

(c) For purposes of this section, family support services include, but are not limited to, costs of recruiting, enrolling, and certifying eligible families, providing social service and health services and referrals, ongoing communication with and support for families, parent education, operation of parent advisory committees, activities for enrolled children, collecting parent fees, and making child care payments for parents.

(d) For purposes of this section, provider training and support services include, but are not limited to, training providers, assisting providers to resolve problems with parents, coordination with community care licensing regarding provider issues, establishing the rate to be paid to each provider, and ongoing communication with and support for providers.

(e) For purposes of this section, administrative expenses includes, but is not limited to, direct and indirect costs of salaries and benefits for program administrators, accounting costs, payroll costs, personnel administration costs, space and supplies used for these functions, legal costs, and audit costs.

SEC. 5. Section 8265.7 of the Education Code is amended to read:

8265.7. Notwithstanding Section 8265, programs *at or* above the standard reimbursement rate may be considered on a case-by-case basis for rate adjustments due to documented increases in insurance costs.

SEC. 6. Section 8273 is added to the Education Code, to read:

8273. (a) A child care provider that is not a school district, county superintendent of schools, city, county, community college district, California State University, or University of California and contracts with the State Department of Education shall establish in a federally insured banking institution located in

1 California an interest bearing account to be known as the ‘child
2 development fund’ into which shall be paid all funds received by
3 the contractor, or from the operation of, child development
4 services under this chapter.

5 (b) Interest shall be accounted for separate from other program
6 income. Interest earned shall be retained by the contractor if both
7 of the following conditions are met:

8 (1) The interest income is expended on reimbursable costs.

9 (2) The contractor provides subsidized child days and hours of
10 enrollment beyond the minimum required to earn the maximum
11 reimbursable amount of a contract and provides those days and
12 hours of enrollment at the same rate provided for in the contract.
13 This paragraph does not apply to resource and referral contracts.

14 (c) A contractor with more than one contract may assign
15 interest earned on advance funds received pursuant to one
16 contract, except for funds from resource and referral contracts, to
17 any one or more contracts if the contractor is able to enroll
18 additional children beyond the minimum required to earn the
19 maximum reimbursable amount of that contract, in order to
20 increase the number of children enrolled.

21 SEC. 7. Section 8274 is added to the Education Code, to read:

22 8274. A contractor funded for a center based program
23 pursuant to this chapter shall be allowed reimbursement for up to
24 four days a year for staff training. A contractor shall record child
25 attendance for each of these staff training days equal to the average
26 program attendance during the calendar month of each of the staff
27 training days.

28 SEC. 8. Section 8471 is added to the Education Code, to read:

29 8471. (a) A provider of extended day care services under
30 contract pursuant to this article whose costs of operation exceed its
31 earnings under the rate assigned pursuant to Section 8470 may
32 request that its contract be terminated, in which case, upon
33 presentation of cost evidence as required by the superintendent,
34 the department and provider shall enter into a contract pursuant to
35 Article 8 (commencing with Section 8240) that provides as
36 follows:

37 (1) The contractor shall continue to serve children enrolled in
38 kindergarten and grades 1 to 8, inclusive, who meet the eligibility
39 requirements for general child care and development programs

1 with funds transferred pursuant to this article, including any
2 increase provided by the Legislature.

3 (2) The program staff employed on the date the contract is
4 entered into shall have seven years from that date to meet program
5 personnel qualifications that apply to general child care and
6 development programs. The superintendent shall issue waivers of
7 program personnel qualifications as needed during these five years
8 for that program staff if the staff meets the personnel requirements
9 under rules and regulations adopted pursuant to Section 8261.

10 (3) The contract shall be retroactively effective as of July 1 of
11 the fiscal year in which it is modified.

12 (b) For purposes of implementing this section, the
13 superintendent may transfer funds from the budget line item for
14 extended day care program contracts to the budget line item for
15 general child care and development program contracts. At the end
16 of the fiscal year, the superintendent shall notify the Department
17 of Finance that the funds were transferred.

18 SEC. 9. Section 1596.804 is added to the Health and Safety
19 Code is added, to read:

20 1596.804. The State Department of Education shall make
21 available federal funds, pursuant to subdivision (b) of Section
22 8206.8 of the Education Code, equal to the estimated annual cost
23 of child care facility license fees for all child care centers
24 contracted pursuant to Article 6 (commencing with Section 8230),
25 Article 7 (commencing with Section 8325), Article 8
26 (commencing with Section 8240), and Article 22 (commencing
27 with Section 8460), of Chapter 2 of Part 6 of the Education Code.
28 These facilities are exempt from paying annual child day care
29 licensing fees pursuant to Section 1596.803.

30 SEC. 10. It is the intent of the Legislature that this bill not
31 require an increase in funding for State Department of Education
32 child development programs in the annual state budget.

